

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:	CASE NO. 09-00462-ESL
TOMAS MONSERRATE ROSADO AND MILDRED HERNANDEZ SANCHEZ Debtor(s)	CHAPTER 13
BANCO POPULAR DE PUERTO RICO Movant(s)	INDEX
TOMAS MONSERRATE ROSADO AND MILDRED HERNANDEZ SANCHEZ José R. Carrión Morales, Chapter 13 Trustee Respondent(s)	

MOTION FOR RELIEF FROM AUTOMATIC STAY

TO THE HONORABLE COURT:

Comes now secured creditor Banco Popular de Puerto Rico ("BPPR"), through its undersigned counsel and very respectfully states and requests:

1. On January 28, 2009, Debtors filed their Voluntary Petition seeking relief under Chapter 13 of the Bankruptcy Code.
2. On June 1, 2009, BPPR filed its secured claim against Debtors in the amount of \$100,968.18, including arrears in the amount of \$5,163.38 (Claim No. 10).
3. BPPR's claim is secured with a mortgage over Debtors' real property, as it appears in **Exhibit A** hereto. **(Movant also adopts by reference as if literally transcribed the supporting documents to Claim No. 10).**
4. Debtors have failed to maintain their mortgage payments to BPPR and as of April 9, 2013, Debtors have 3 post petition payments of \$761.00 each in arrears, plus \$110.73 in accrued post-petition late charges, **for a total in post-petition arrears of \$2,393.73** (see **Exhibit B** hereto).
5. Section 362(d)(1) of the Bankruptcy Code (11 U.S.C. 362(d)(1)) reads as follows:

“(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay --

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;”

6. Debtors’ failure to make timely post-petition mortgage payments to BPPR constitutes cause for granting relief from the automatic stay under Section 362(d)(1) of the Bankruptcy Code.

7. BPPR submits that Debtors are not entitled to the protections of the Servicemembers Civil Relief Act of 2003 (see **Exhibit C** hereto).

8. Should BPPR’s Motion be granted, BPPR has no objection that the Chapter 13 Trustee be authorized to discontinue disbursements to BPPR.

WHEREFORE, it is respectfully prayed that BPPR be granted relief from the automatic stay pursuant to 11 U.S.C. 362(d)(1) and be authorized to foreclose upon its collateral, and that BPPR be granted expenses in the amount of \$176.00 and attorney’s fees in the amount of \$324.00, with such other and further relief as this Court deems just and proper.

Ponce, Puerto Rico, this 10th day of April, 2013.

s/José A. Moreda del Valle
José A. Moreda del Valle, Esq.
USDC-PR 229401

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**ATTORNEY PROFESSIONAL SERVICES GROUP
GISETTE SANTIAGO DE JESUS
INVESTIGADORA DE TITULOS**

**N41 PASEO FAGOT
BOULEVARD MIGUEL A. POU
PONCE, PUERTO RICO 00731**

**OFICINA: (787) 492-0061
MOBILE : (787) 596-7015**

ESTUDIO DE TITULO

**FINCA: 7565
FOLIO: 185
TOMO: 196 de Gurabo
REGISTRO: Caguas II
CASO: TOMAS MONSERRATE ROSADO
SOLICITADO POR: Lcdo. Carlos Batista (8785629)**

DESCRIPCION:

URBANA:

Solar radicado en el Barrio Rincón del término municipal de Gurabo, Tercera Extensión de la Urbanización Villa del Carmen, marcada con el número 3-F con un área de **TRECIENTOS DOCE PUNTO CERO CERO METROS CUADRADOS (312.00MC)**. En lindes por el **NORTE**, en 24.00 metros con el solar #2; por el **SUR** en 24.00 metros con el solar #4, por el **ESTE**, en 13.00 metros con el solar #10 y por el **OESTE**, en 13.00 metros con la calle cinco (5). En el solar descrito enclava una casa de una sola planta de concreto reforzado y bloque de concreto para fines residenciales. Es segregación de la finca número 718 inscrita al folio 81 del tomo 134 de Gurabo.

ADQUISICION:

Consta Inscrita a favor de **TOMAS MONSERRATE ROSADO Y MILDRED HERNANDEZ SANCHEZ**, mayores de edad, casados entre si y vecinos de Caguas, Puerto Rico, quienes la adquiere por compra de **ALTURAS DE GURABO CORPORATION**, por el precio de **\$35,910.00 (treinta y cinco mil novecientos diez dólares)**. Así surge de la escritura número **50**, otorgada en San Juan, Puerto Rico, el día treinta de abril del año mil novecientos ochenta y dos; ante el Notario Público **FRANK QUIÑONES VIGO**. Inscrita al folio **185** del tomo **196** de Gurabo, Registro de Caguas II. Inscripción 1ª.

CARGAS:

POR SU PROCEDENCIA:

Servidumbres a favor de la Autoridad de Comunicaciones de Puerto Rico, Autoridad de Energía Eléctrica, Autoridad de Acueductos y Alcantarillados y Municipio de Gurabo y condiciones restrictivas.

POR SI:

Hipoteca constituida mediante al escritura número **16**, otorgada en San Juan, Puerto Rico, el día 30 de marzo de 2000, ante el Notario Público **RAFAEL QUIÑONES VIGO**, en garantía de un pagaré suscrito bajo affidavit número **7532**, a favor de **ADMINISTRACION DE LOS SISTEMAS DE RETIRO DE LOS EMPLEADOS DEL GOBIERNO Y LA JUDICATURA DE PUERTO RICO**, o a su orden por la suma principal de **\$69,000.00** (sesenta y nueve mil dólares) y créditos adicionales, devengará intereses al **8 5/8%** por ciento anual. Tasándose la finca en **\$69,000.00** (sesenta y nueve mil dólares), e inscrita al folio **188** del tomo **196** de Gurabo, Sección Caguas II, inscripción 4ª y última.

EMBARGOS ESTATALES: Ninguno

SENTENCIAS E INCAPACITADOS: Ninguno

GRAVAMENES FEDERALES: Ninguno

DOCUMENTOS PENDIENTES DE DESPACHO:

- 1) Que al asiento **251** del diario **630**, aparece presentada por correo el día 19 de marzo de 2007, copia de la escritura número **22**, otorgada en Cayey, Puerto Rico, el día 16 de febrero de 2007, ante el Notario Público **MARIA I. DE MIER PEREZ**, mediante la cual se inscriba a favor de **POPULAR MORTGAGE, INC**, sobre la finca número **7565** del término municipal de Gurabo, Solar 3-F de la Urbanización Villa del Carmen, Barrio Rincón con cabida de **312.00mc** (trescientos doce punto cero cero metros cuadrados). Con valor la transacción de **\$96,000.00** (noventa y seis mil dólares).
- 2) Que al asiento **1302** del diario **632**, aparece presentada el día 17 de julio de 2007, copia de la escritura número **824/2007** sobre cancelación de hipoteca, otorgada en San Juan, Puerto Rico, el día 9 de julio de 2007, ante el Notario Público **JACQUELINE J. MARTINEZ ROMERO**, mediante la cual se cancele a favor de **POPULAR MORTGAGE, INC.**, sobre la finca número **7565** del término municipal de Gurabo, Solar 3-F del Barrio Rincón con cabida de **312.00mc** (trescientos doce punto cero cero metros cuadrados). Con valor la transacción de **\$69,000.00** (sesenta y nueve mil dólares).

BITACORA:

Nada, hasta el asiento 612 del diario 647 de Caguas II, Puerto Rico, siendo las 8:00 de la mañana del día 18 de septiembre del año 2009.

NOTA: Esta Sección del Registro tiene establecido un Sistema Computarizado de Operaciones. **ATTORNEY PROFESSIONAL SERVICES GROUP**, no se hace responsable por errores y/u omisiones que cometan los empleados del Registro de la Propiedad en la entrada y búsqueda de los mismos; tanto en la Bitácora como en los Libros de Inscripción; Libros de Embargos Estatales y Federales y Libros de Sentencias e Incapacitados; (ya que muchos de estos libros están destruidos); así como que muchas veces la Bitácora no esta al día; y solicitamos los documentos y muchas veces no están disponibles.



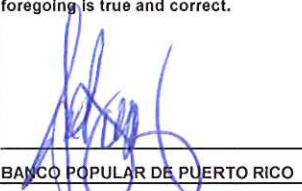
Handwritten signature of Gisette Santiago de Jesús in cursive script.

GISETTE SANTIAGO DE JESUS
INVESTIGADORA REGISTRAL
ATTORNEY PROFESSIONAL SERVICES GROUP

gsdj/09

ATTORNEY PROFESSIONAL SERVICES GROUP
 Gisette Santiago de Jesús
Investigadora de Títulos
Lic. 0250
Oficina 787.492.0061

STATEMENT OF ACCOUNT

DEBTOR:		Tomas Monserrate Rosado		BPPR NUM:		071010018785629	
BANKRUPTCY NUM:		09-00462ESL		FILING DATE:		01/28/09	
SECURED LIEN ON REAL PROPERTY							
Principal Balance as of		12/01/12				90,941.94	
Accrued Interest from		11/01/12 to		04/30/13		3,843.56	
Interest: 8.500%		Accrued num. of days: 179		Per Diem: 21.472403			
Monthly payment to escrow							
Hazard \$0.00		Taxes \$0.00		MIP \$0.00			
A&H \$0.00		Life \$0.00					
Total montly escrow		\$0.00		Months in arrears 5		Escrow in arrears 0.00	
						Accrued Late Charge: 363.11	
Advances Under Loan Contract:							
Title Search \$45.00		Tax Certificate \$0.00		Inspection \$0.00		45.00	
Other \$0.00							
Legal Fees:						300.00	
Total amount owed as of		04/30/13				95,493.61	
AMOUNT IN ARREARS							
PRE-PETITION AMOUNT:							
2 payments of		\$761.00		each one		1,522.00	
acummulated lated charges						252.38	
Advances Under Loan Contract:							
Title Search \$45.00		Tax Certificate \$0.00		Inspection \$0.00		45.00	
Other \$0.00							
Legal Fees						300.00	
						A = TOTAL PRE-PETITION AMOUNT 2,119.38	
POST-PETITION AMOUNT:							
3 payments of		\$761.00		each one		2,283.00	
Late Charge						110.73	
						B = TOTAL POST-PETITION AMOUNT 2,393.73	
						A + B = TOTAL AMOUNT IN ARREARS 4,513.11	
OTHER INFORMATION							
Next pymt due 12/01/12		Interest rate 8.500%		P & I \$738.16		Monthly late charge \$36.91	
Investor BANCO POPULAR DE PUERTO RICO AS SERVING AGENT OF POPULAR MORTGAGE, INC.		Property address		URB. VILLA DEL CARMEN F-3 CALLE 5 GURABO PR			
The subscribing representative of Banco Popular de Puerto Rico declares under penalty of perjury that according to the information gathered by Banco Popular de Puerto Rico the foregoing is true and correct.							
						04/09/13	
BANCO POPULAR DE PUERTO RICO						DATE	

SACCTFHA Gerardo Cáceres

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UNSWORN STATEMENT UNDER PENALTY OF PERJURY

I, NYDIA I. PICART FIGUEROA, of legal age, single, Supervisor, Bankruptcy Division of Banco Popular de Puerto Rico, and resident of Bayamón, Puerto Rico, under penalty of perjury declare that:

1. My name and personal circumstances are those stated above.
2. In accordance with the provisions of the SOLDIERS AND SAILORS RELIEF ACT OF 2003, PUBLIC LAW 108-189, I hereby state that on this same date I reviewed the records of the Debtors whose bankruptcy petition the appearing creditor is requesting dismissal of or to lift the automatic stay and there is no evidence that Debtors are in military service. The enclosed Military Status Reports, issued by the Department of Defense Manpower Data Center, dated April 10, 2013, electronically signed by Mary M. Snaveley-Dixon, Director, show that Debtors **are not** on active military duty (see Exhibits 1 and 2).
3. The appearing creditor has not been notified by letter or other communication setting forth facts stating in any manner that the party against whom remedy is hereby sought has been called or released from military duty within the last 90 days.

In San Juan, Puerto Rico, this 10th day of April, 2013.


NYDIA I. PICART FIGUEROA
Declarant



Status Report
Pursuant to Servicemembers Civil Relief Act

Last Name: MONSERRATE ROSADO

First Name: TOMAS

Middle Name:

Active Duty Status As Of: Apr-10-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: 42D7L028A0B2MCO



Status Report
Pursuant to Servicemembers Civil Relief Act

Last Name: HERNANDEZ SANCHEZ

First Name: MILDRED

Middle Name:

Active Duty Status As Of: Apr-10-2013

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
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Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

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NA	NA	No	NA
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Certificate ID: I268Q0C8Z0B2X50